

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA, ex rel. ROBERT C. BAKER,)	
)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	
)	NO. CIV 05-279 WJ/WDS
COMMUNITY HEALTH SYSTEMS, INC., et al.,)	
)	
)	
<i>Defendants.</i>)	
)	

**ORDER GRANTING DEFENDANTS' MOTION
TO COMPEL PRODUCTION OF DOCUMENTS FROM THE
NEW MEXICO HUMAN SERVICES DEPARTMENT**

This matter is before the Court on Defendants' Motion to Compel Production of Documents From the New Mexico Human Services Department ("HSD"). (Document No. 216) The Court, having considered the parties' written submissions and being well advised in the premises, finds that the motion is well taken and should be GRANTED.

It appears to the Court that HSD's inattentiveness to the Court's June 23, 2009 document retention order went far beyond the limited issue of Carolyn Ingram's email. Defendants' have presented evidence of several witnesses who were simply unaware that the document retention order existed. One HSD official testified that his emails were erased when he was transferred to another division. In other cases, the production of email by HSD appears to be incomplete. Under these circumstances, it is the Court's opinion that a forensic investigation is in order. The Defendants have suggested that the Court appoint an expert to conduct the investigation, but the Court declines to do so. Defendants may retain their own forensic expert to perform the work.

The Court is unwilling at this time to order a compulsory in camera review of all documents for which HSD asserts a privilege. A recipient of a subpoena who is withholding documents on the basis of privilege is responsible for preparing a privilege log which complies with the Federal Rules of Civil Procedure. The Court declines to rule on any disputes regarding privilege before a privilege log has been produced and the attorneys involved have undertaken a good faith, professional effort to resolve any disagreements .

SO ORDERED this 16th day of August, 2011.

A handwritten signature in black ink, appearing to read 'W.D. Schneider', is written above a horizontal line.

W. Daniel Schneider
United States Magistrate Judge